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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,825	03/11/2004	James Mason Boswell	MS1-1912US	8389
22801	7590	07/24/2008		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER GOODCHILD, WILLIAM J	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 07/24/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,825

Applicant(s)

BOSWELL ET AL.

Examiner

WILLIAM J. GOODCHILD

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-23, 28-29 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al., (US Publication No. 2003/0228909), (hereinafter Tanaka), and further in view of DeLuca (US Patent No. 5,075,684).

Regarding claims 21, 28 and 34, Tanaka discloses adding the new message to the queue [Tanaka, paragraph 90, lines 12-15]. Tanaka does not specifically disclose determining whether a queue for a targeted recipient of a new message has more than a message queue threshold number of messages, the new message having one or more fields that identify a sender attribute of the new message; when the queue includes more than the message queue threshold number of messages: deleting one of the messages from the queue when an attribute message count exceeds a sender attribute threshold, the attribute message count including messages in the queue containing the sender attribute of the new message. However, DeLuca, in the same field of endeavor discloses determining if the source slots for a message are full [DeLuca, figure 3, item 46 and column 2, line 62 – column 3,

lines 24]; overwriting the oldest message based on sender [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24]. It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate deleting a message based on a sender in order to enhance which message(s) should be deleted.

Regarding claim 22, Tanaka-DeLuca further discloses determining whether the number of messages in the queue having the sender attribute of the new message exceeds the sender attribute threshold number of messages [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24];

deleting the oldest message in the queue when the attribute message count does not exceed the sender attribute threshold [Tanaka, paragraph 90]; and
deleting the oldest message in the queue having the sender attribute of the new message when the attribute message count exceeds the sender attribute [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24].

Regarding claim 23, Tanaka-DeLuca further discloses wherein the sender attribute of the message is a sender name, and wherein deleting the oldest message in the queue having the sender attribute includes deleting the oldest message in the queue having the sender name of the new message [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24].

Regarding claim 29, Tanaka further discloses wherein the targeted recipient is an address identifying a user, the address being independent from any particular client device [Tanaka, paragraph 37].

Regarding claim 32, Tanaka further discloses the sender attribute comprising a user of a game console [Tanaka, Abstract].

Regarding claim 33, Tanaka further discloses the sender attribute comprising a game title [Tanaka, Abstract].

Regarding claim 35, Tanaka-DeLuca further discloses wherein the queue is associated with a targeted recipient of the newly received message [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24].

Regarding claim 36, Tanaka-DeLuca further discloses delete the oldest message in the queue when an attribute message count does not exceed a sender attribute threshold, the attribute message count including messages in the queue containing the sender attribute of the newly received message [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24]; and
delete the oldest message in the queue having the sender attribute of the newly received message when the attribute message count exceeds the sender attribute threshold [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24].

Regarding claim 37, Tanaka-DeLuca further discloses wherein the sender attribute of the newly received message is a sender name [DeLuca, figure 3, item 50, column 2, line 62 – column 3, lines 24].

3. Claims 24-27, 30-31 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka-DeLuca as applied to claim 21, 28 and 34 above, and further in view of Pang (US Publication No. 2003/0132972).

Regarding claim 24, Tanaka-DeLuca does not specifically disclose wherein the sender attribute of the message is a sender title, and wherein deleting the oldest message in the queue having the sender attribute includes deleting the oldest message in the queue having the sender title of the new message.

However, Pang, discloses removing a message based on the title or subject line of the message [Pang, paragraph 54]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the removal of a message based on title in order to enhance which message(s) should be deleted.

Regarding claim 25, Tanaka-DeLuca-Pang further discloses deleting a message having the sender title of the new message when an attribute title count exceeds an attribute title threshold, the attribute title count including messages in the queue containing the sender title of the new message [Pang, paragraph 54]; and

deleting a message having the sender name of the new message when the attribute title count does not exceed the attribute title threshold and when an attribute name count exceeds an attribute name threshold, the attribute name count including messages in the queue containing the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24].

Regarding claim 26, Tanaka-DeLuca-Pang further discloses deleting a message having the sender title of the new message is to delete the oldest message in the queue having the sender title of the new message [Pang, paragraph 54]; and deleting a message having the sender name of the new message is to delete the oldest message in the queue having the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24].

Regarding claim 27, Tanaka-DeLuca-Pang further discloses wherein the sender title includes at least one of a system administrator, a publisher of an application, and an application itself [Pang, paragraph 54].

Regarding claim 30, Tanaka-DeLuca-Pang further discloses determining an attribute name count in the queue including messages in the queue containing the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24];

determining an attribute title count in the queue including messages in the queue [DeLuca, figure 3, column 2, line 62 – column 3, lines 24] containing the sender title of the new message [Pang, paragraph 54];
when the attribute title count exceeds an attribute title threshold, deleting a message having the sender title of the new message [Pang, paragraph 54];
when the attribute title count does not exceed the attribute title threshold and when the attribute name count exceeds an attribute name threshold, deleting a message having the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24].

Regarding claim 31, Tanaka-DeLuca-Pang further discloses deleting a message having the sender title of the new message is to delete the oldest message in the queue [DeLuca, figure 3, column 2, line 62 – column 3, lines 24] having the sender title of the new message [Pang, paragraph 54]; and
deleting a message having the sender name of the new message is to delete the oldest message in the queue having the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24].

Regarding claim 38, Tanaka-DeLuca-Pang further discloses wherein the sender attribute of the newly received message includes a sender name [DeLuca, figure 3, column 2, line 62 – column 3, lines 24] and a sender title [Pang, paragraph 54].

Regarding claim 39, Tanaka-DeLuca-Pang further discloses delete the oldest message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24] in the queue having the sender title [Pang, paragraph 54] of the newly received message when an attribute title count exceeds an attribute title threshold, the attribute title count including messages in the queue containing the sender title of the newly received message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24];

delete the oldest message in the queue having the sender name of the newly received message when the attribute title count does not exceed the attribute title threshold and when an attribute name count exceeds an attribute name threshold, the attribute name count including messages in the queue containing the sender name of the newly received message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24].

Regarding claim 40, Tanaka-DeLuca-Pang further discloses wherein the sender attribute of the newly received message includes a sender name [DeLuca, figure 3, column 2, line 62 – column 3, lines 24] and a sender title [Pang, paragraph 54].

Regarding claim 41, Tanaka-DeLuca-Pang further discloses determining whether a queue for a targeted recipient of a new message has more than a message queue threshold number of messages, the new message having one or more fields that identify a sender title [Pang, paragraph 54] and a sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24]; and

deleting a message having the sender name of the new message when the attribute title count does not exceed the attribute title threshold and when an attribute name count exceeds an attribute name threshold, the attribute name count including messages in the queue containing the sender name of the new message [DeLuca, figure 3, column 2, line 62 – column 3, lines 24]; and
adding the new message to the queue [Tanaka, paragraph 90, lines 12-15].

Response to Arguments

1. Applicant's arguments with respect to claims 21-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. GOODCHILD whose telephone number is (571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145